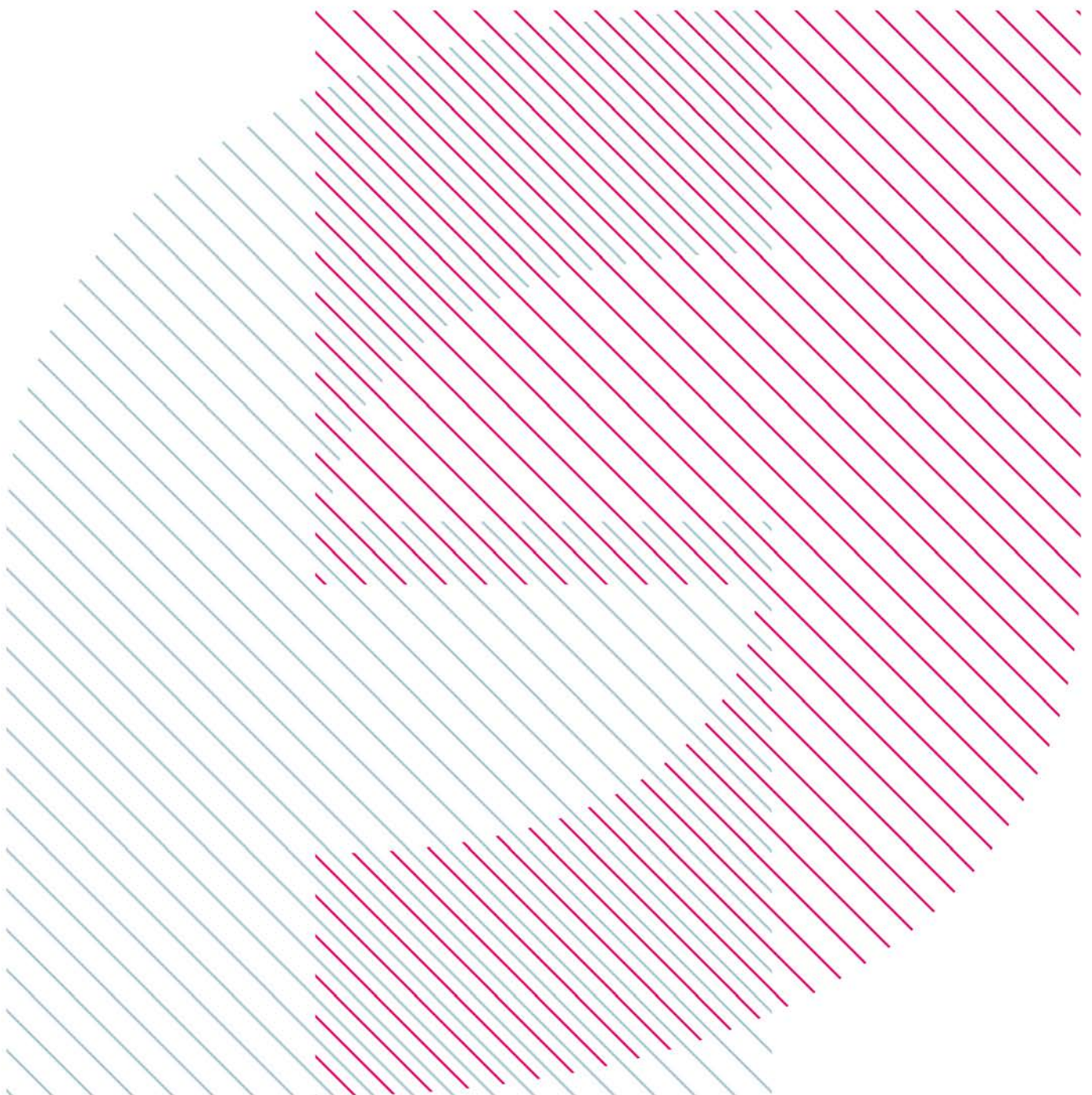




**Solicitors Regulation
Authority: Corporate
Strategy 2020–2023**
Consultation response



Introduction

The Legal Ombudsman was established by the Legal Services Act (2007). Our role is two-fold: to provide redress when things go wrong for people using the legal services market, and also to feed the lessons we learn from our work back to the profession, regulators and policymakers to allow the market to develop and improve, supporting access to justice.

We welcome the opportunity to respond to the Solicitors Regulation Authority (SRA) about its Corporate Strategy 2020-2023, which sets out an innovative and forward-looking agenda for the coming three years. It is particularly helpful to understand this as we also refine our new strategy for 2020-2023.

As a whole, at the high level, the SRA's plans appear to be complimentary and coherent with our own. We are encouraged to see its renewed commitment to the consumer protection element of its responsibilities, especially where people may be vulnerable when engaging a legal service provider. At the Legal Ombudsman we recognise that often it is a stressful, potentially life-changing event that leads people to seek out a solicitor, and as such it is crucial for regulators to ensure there are safeguards for people to rely on.

Our detailed comments on the SRA's plans are laid out below. We have reflected on our own experience and insight in providing our view on this new strategy.

SRA Corporate Strategy 2020-2023

Q.1 Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

We agree that this is a time of change and uncertainty across the key areas identified. We would suggest in addition that this is a time of particular challenge of traditional power structures and institutions – with more grassroots engagement in politics, more outspoken criticism of policy and spending, greater scrutiny of the influence of technology on our everyday lives, and more vocal advocacy of action on climate change.

This includes challenge from government and professional communities as well as the general public. Scrutiny is certainly apparent in the legal sector: we are aware that concerns about cost and complexity of regulation are particularly pressing for many

legal services providers, and have ourselves experienced the growing interest in regulatory activity from members of the public and policymakers. There is in many cases a desire to see parity of approach across organisations in the regulated market, and willingness of organisations to embrace changes for themselves that they have introduced for their regulated communities.

We (and other organisations in this space) need to be accountable to the profession, as well as ensuring the wider public has confidence in what we do and how we do it. Transparency is integral to this. We are currently working on increased transparency of our governance, processes and decision-making, and are aware that frontline regulators including the SRA are also undertaking action in this area. This is an additional factor that the SRA should take into account when making its plans for the years ahead.

Q.2 Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

All three of the proposed strategic objectives seem sensible and appropriate to the demands of the legal services market as it stands.

We know that high standards are always expected of legal professionals and it is important that members of the public can come to a solicitor with confidence in their advice and service. Our learning and feedback work supports solicitors to achieve high service standards, and there are many ways that our insights can inform changes to the way a provider operates. Likewise, people must have trust in regulators in order to be sure that they are protected when things go wrong.

However, it is important that there is a clear sense of what ‘high’ standards really are, and that the desire to protect users of legal services and to increase trust in the profession is balanced carefully with other priorities. The SRA has stated that it will be guided by Better Regulation principles, and as such, should consider whether future standards-setting might increase the regulatory burden. We are concerned that if this were to happen, it might place regulated legal professionals out of reach for ordinary people who will be driven to the unregulated sector instead, where protections are few.

It is also crucial that high standards are implemented well and that there is evidence of this. At the Legal Ombudsman we naturally see a lot of what happens when legal professionals fall short of standards, but we are also interested in the cases that don’t make it to us, and the impact this has on people’s experience of the legal sector as a whole.

We are also aware of the growing role to be played by legal technology in helping the market to grow, adapt and become more accessible to a wide range of people. This is an area in which collaboration seems to be especially important. We are able to

provide a wider viewpoint on users of legal services and the issues they encounter, ensuring that opportunities are not missed and consumer protection not compromised. We would be interested to find out more about the SRA's planned projects, including whether there is any crossover with our own – and therefore opportunities to work together and share learning.

Our focus would necessarily remain on the impact on service and ability to obtain redress. We would be keen to see where technology can help with meeting the expectations of current and future users as well as supporting wider access to the services – particularly for those who are currently choose not to use, or are unable to afford, a solicitor.

Regarding the SRA's third objective, we agree that this is an important approach to take. We have a similar proposed objective for the next three years, in recognition of the pace of change in society and the sector at the moment. We are particularly interested in the SRA's commitment to identifying the current framework's limitations and speaking out where change is needed, which is something we will also be looking to do. This seems like another area in which collaboration between our organisations would be beneficial.

Finally, it is very encouraging to see that the SRA will be looking to support access to justice across all three of these strategic objectives. The focus of regulation appears to be shifting more towards this regulatory objective for all organisations in the sector, and we are pleased that this is the case. We also believe it is wise to recognise the wider, more significant factors that influence this outside of legal services. We hope that the authoritative voice of the SRA can be deployed well to raise awareness of the gaps and barriers that the public faces when engaging with our justice system as a whole.

Q.3 Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

As a general comment, we believe that the ways identified make sense and are likely to be helpful in ensuring that the SRA's aims are met. We take a specific interest in a few of them, as set out below.

At the Legal Ombudsman, our focus is always primarily on the service provided by lawyers. We will be keen to work with the SRA on monitoring the impact of the new Standards and Regulations, especially regarding numbers of complaints we receive about providers operating as freelance solicitors or out of unregulated businesses in the future. We have already had several discussions with the SRA about setting up a working group to do this, and would be pleased to put more definite plans in place over the coming year. We are also aware of the new separation in the Standards and

Regulations for firms and for individuals, and will need to consider the impact this may have over time on consistency in standards of service.

We are also interested to hear more detail about the SRA's plans to reform pathways for entry to the profession in the future, especially regarding the proposed Solicitors Qualifying Exam (SQE) and how this will reflect the need for robust service standards. We intend to take a more active role in influencing education, training and career development in the years to come. This is to ensure that legal service providers are equipped from the start to provide a good service to their clients (and others) and that they are encouraged to continue working on this throughout their professional careers.

We already produce a range of materials that communicate learning and insight from our scheme, and would be eager to explore with SRA how we could share these more widely and effectively. Furthermore, we would like to develop a closer working relationship with the SRA regarding firms that potentially pose consumer protection risks.

We, like the SRA, are committed to diversity and equality and agree that the impact of the new SQE must be closely monitored with regard to this.

With regard to the second objective, building understanding of user needs and new technologies (including their benefits and risks) seems to be a good place to start. It is possible to make many assumptions in evaluating technology in the legal services market, and not all of these are borne out by evidence. We are therefore keen to encourage and engage in approaches that are evidence-based, and as always, are interested in opportunities for joint research on this with the SRA and others.

The SRA's plan to deepen its understanding of consumer concerns and work with others to identify and find solutions is a good one. As an ombudsman scheme, we are well-positioned to present information about detriment caused to users of legal services and offer critique of areas that need improvement.

We would be interested to hear the SRA's views on whether the Legal Ombudsman should explore taking on 'own initiative' powers as a way to tackle practice that is below standard in the sector, with a view to contributing to this wider aim. This is one of the suggestions included in Professor Stephen Mayson's interim report on the regulation of legal services, and we are keen to understand other organisations' views on the matter.

Our final comment on the proposed ways of achieving each objective is with regard to the SRA's desire to 'raise public awareness of legal services and how to use them'. There is a very delicate balance between promoting access to justice, which potentially may encourage individuals to seek assistance from unregulated legal service providers, and making the public aware of the risks in the unregulated sector. We

suggest to the SRA that an acutely important element of this objective is ensuring that the public understand regulatory protections and their value. This is an area in which all evidence indicates that the general public's understanding is relatively poor, and yet it can have a huge impact on them where things go wrong. Our joint 'Better Information' research underlines this, with the consumer survey showing that 57% of respondents believe that all legal services providers are regulated.

As a more general point you refer to setting and maintaining high standards for yourself. We would comment that this may be easier to monitor if there were more specific and measurable KPIs in place for some of the objectives.

Q.4 What specific areas of focus would you like to see us develop under each objective?

We have identified several areas above that are of particular interest to the Legal Ombudsman. In addition to these, we would be particularly interested to understand more about the SRA's work on inclusivity in relation to technological innovation.

We have heard of some thought-provoking work being undertaken at the moment on diversity impacts of new technology, and would like to see the SRA develop this further with regard to situational vulnerability in particular. It would be very helpful to understand more about how different demographics might benefit or suffer with changes to service provision, especially where this might be unanticipated or even contrary to previous assumptions.

Q.5 Have we missed anything significant or included anything that we shouldn't be focusing on?

The strategy as presented seems fairly comprehensive. Nevertheless, the SRA may also want to reflect upon the degree to which its professional community feel that regulation works for them at the moment. This could be a very useful reference point for developing and realising future objectives, in order to ensure that the SRA retains the confidence of solicitors as well as other stakeholders. This consideration could potentially be incorporated into any evaluation of the success of this strategy as it is implemented.

Conclusion

Thank you for the opportunity to comment on the Solicitors Regulation Authority's Corporate Strategy 2020-2023.

Overall, we believe this strategy identifies worthwhile objectives for the SRA in the coming years. These reflect the topics in focus for the Legal Ombudsman at this time as well, and we look forward to many more opportunities for our organisations to work together over the lifetime of our new strategies.

For any questions about this response please contact our Parliamentary and Policy Officer at support@legalombudsman.org.uk